

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 41191 (Sub-No. 1)

AEP TEXAS NORTH COMPANY

v.

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: September 27, 2004

On September 9, 2004, The Burlington Northern and Santa Fe Railway Company (BNSF) filed a motion to strike portions of AEP Texas North Company's (AEP Texas) rebuttal evidence, which it contends exceeds the scope of permissible rebuttal. On September 21, 2004, AEP Texas filed a motion for an extension of time to file its reply to BNSF's motion to strike and to what it claims is new evidence submitted by BNSF. AEP Texas states that an extension of time, until November 5, 2004, is necessary to fully evaluate and respond to BNSF's allegations regarding AEP Texas' rebuttal evidence regarding the stand-alone railroad's (SARR) traffic group, system configuration and operating plan and to the alleged new evidence submitted by BNSF. AEP Texas states that it would like to respond to BNSF's alleged new evidence rather than request that the Board strike it. On September 23, 2004, BNSF filed a motion opposing AEP Texas' 5-week extension request, maintaining that AEP Texas does not need the extension to reply to its motion to strike but rather seeks an extension of time to submit new evidence.

The Board's interest in a full record on the issues raised in BNSF's motion to strike will be further served by granting an extension. An extension of 3 weeks is more than sufficient to permit AEP Texas to address concerns about the evidence already submitted in this case. Parties are cautioned that the Board's rules limit the submission of new evidence at this stage in the proceeding. Accordingly, the date for filing a reply to BNSF's motion to strike will be extended to October 20, 2004.

It is ordered:

1. The due date for AEP Texas to file a reply to BNSF's motion to strike is extended to October 20, 2004.

2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary